

As we discussed during our call on March 12, EPA remains committed to addressing radiologically impacted material (RIM) regardless of where it is located within the West Lake Landfill site. EPA's jurisdiction under the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) includes the location of a release of hazardous substances and wherever hazardous substances have come to be located. As you may be aware, in May 2008 EPA issued a Record of Decision for what has been designated Operable Unit 1 of the site, and in July 2008 a Record of Decision for what has been designated Operable Unit 2 of the site. As described in these RODs, OU 1 consists of the radiologically contaminated landfill areas and OU 2 consists of the other landfill areas where hazardous substances are present but that are not impacted by radionuclide contaminants. Bearing in mind that EPA's jurisdiction under CERCLA generally extends only to hazardous substances and not to solid waste or trash, EPA's jurisdiction extends, as indicated by our RODs, to wherever hazardous substances are located within the landfill complex. As our OU2 ROD indicated, hazardous substances, including certain total organic carbons, total petroleum hydrocarbons, volatile organic compounds, and metals, have been detected in soils and groundwater within the landfill. EPA's jurisdiction applies to these hazardous substances and areas as well.

Through the Agreed Order entered in the Circuit Court of St. Louis County, the State is asserting numerous environmental authorities which EPA considers to be complementary to EPA's. The State has taken the lead with regard to the subsurface smoldering event. We believe that a continued coordinated effort is the preferred method for accomplishing our mutual goals.

During our call we also discussed concerns regarding the possibility that radionuclides have impacted leachate at the site. Our information on this is incomplete and we are working to get a better understand of what the facts are and their implications. [There is a call with MDNR on 3/14 to discuss.]